

REMARKS

The Office Action dated March 19, 2004 has been received and reviewed by the applicant. Claims 41-51 are in the application. Claims 41-51 stand rejected. Claims 41, 44, 45 and 50 have been amended. Claims 46-48 have been canceled.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. More specifically, the rejection states that "humanly visible watermarked image" is not shown in the drawings. In response, this phrase is re-phrased as "perceptible" for one-to-one correspondence with the specification. Still further, since the watermark is perceptible, but not objectionable (i.e., barely visible), the image 12 of Fig. 3 clearly illustrates (i.e., barely visible) the claim language.

Claims 44, 46-47 stand objected to under 37 CFR § 1.75 (d)(a) as failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention or discovery. In response, claim 44 is amended as suggested by the Rejection. The Examiner is kindly thanked for pointing out this oversight.

Claims 50-51 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, claim 50 is amended for clarity as suggested by the rejection. Again, the Examiner is thanked for this oversight.

Claims 41, 42, 44, 46, 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Braudaway et al., U.S. Patent No. 5,530,759 ("Braudaway") and Wen et al., U.S. Patent No. 6,130,741 ("Wen"). [Note that Wen incorporates by reference Daly et al., U.S. Patent No. 5,859,920 ("Daly")]. Claim 41 is now amended to include a "perceptible, but not objectionable watermark by having the watermark include a characteristic that is substantially consistent with the film grain noise characteristic." Support is on page 10, lines 13-17. In contrast, U.S. Patent 5,530,759 to Braudaway et al. discloses "an image [that] is not changed, the contents of the watermarked image may be viewed clearly, while discouraging unauthorized use of the image." (see column 2, lines 12-15) This is put into perspective in column 1, lines 44-47 where it states that "the problem is to devise techniques that produce images that are totally acceptable for some uses, but yet unacceptable for other uses." In its proper context, it is clearly apparent that the image in Braudaway et al. is visible, but it *is objectionable*. In contrast, the claimed invention includes a watermark that is perceptible, yet not objectionable. The claimed invention is advantageous for tracking purposes.

In addition, claim 41 includes "binary message data." Braudaway et al. disclose a scanned image or graphic (column 4, lines 52-59). The claimed invention includes the advantage in that the binary message data can obviously include various information that isn't in a scanned image or graphic.

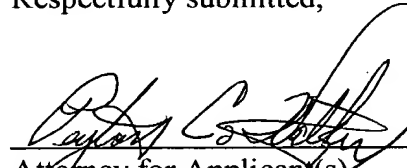
A declaraion is enclosed herewith for removing Wen et al. as a reference. Notwithstanding the declaration, in Wen et al., the watermark of this reference is clearly visually undetectable (see column 5, lines 27-29 and column 5, lines 54-61). One looking for perceptible watermarks would surely not look to Wen et al. for combining with Braudaway as they have *opposite* teachings. In summary, Wen et al. is sworn behind and is not a reference, and even if a reference, it is respectfully submitted that it is not obvious for the above reasons.

Given these deficiencies of these references, the combination of Braudaway et al. and Wen et al. individually or in combination do not teach or suggest the claimed invention.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

Respectfully submitted,



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